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Ajay Pathak
Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

In re Application of :
Dingwell, et al. :
Application No.: 10/528,469 : DECISION ON
PCT No.: PCT/AU2003/001284 :
Int. Filing Date: 29 September 2003 : PETITION UNDER
Priority Date: 30 September 2002 :
Attorney's Docket No.: 6180-000001/US : 37 CFR 1.47(a)
For: COMPONENT INTERLOCKING :

This is a decision in response to the "REQUEST FOR CORRECTION OF INVENTORSHIP PURSUANT TO 35 U.S.C. § 116 AND 37 C.F.R. § 1.48" filed 07 March 2006, which is being treated as a petition under 37 CFR 1.47(a) and a request under 37 CFR 1.497.

BACKGROUND

On 29 September 2003, applicant filed international application PCT/AU2003/001284 that claimed priority of an earlier Australian application filed 30 September 2002. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 08 April 2004. Accordingly, the thirty-month period for paying the basic national fee for the national stage in the United States expired at midnight on 29 March 2005.

On 21 March 2005, applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by a copy of the international application, a declaration of inventorsip and the basic national fee of \$300 as required by 35 U.S.C. 371(c). These papers were assigned application number 10/528,469.

On 18 October 2005, the United States Patent and Trademark Office in its capacity as an Elected Office mailed the "NOTIFICATION OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 AND 37 CFR 1.495" (Form PCT/DO/EO/903).

On 07 March 2006, applicant filed this "REQUEST FOR CORRECTION OF INVENTORSHIP PURSUANT TO 35 U.S.C. § 116 AND 37 C.F.R. § 1.48." This request included statements by the two inventors who wish to be added to the application, written consent of the assignee and declarations signed by the original inventor and the two inventors who wish to be added to the application. Applicant also included \$130.00 of the petition fee. The petition fee is \$200, so an additional \$70 has been charged to applicant's deposit account.

DISCUSSION

37 CFR 1.497 states, in part:

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to § 1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26^{ter}.1, he or she must file an oath or declaration that:

- (1) Is executed in accordance with either §§ 1.66 or 1.68;
- (2) Identifies the specification to which it is directed;
- (3) Identifies each inventor and the country of citizenship of each inventor; and
- (4) States that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

The declaration signed by inventor Dingwall is improper in that it does not comply with 37 CFR 1.497, i.e., inventor Dingwall removed the statement "or an original, first and joint inventor (if plural names are listed below)." Therefore, inventor Dingwall's declaration is improper.

If inventor Dingwall refuses to sign a proper declaration, then applicants would need to file a petition under 37 CFR 1.47(a).

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing inventor.

Currently, items (2), (3) and (4) are missing.

CONCLUSION

The petition under 37 CFR 1.47(a) is **DISMISSED**.

The request under 37 CFR 1.497(d) is **DISMISSED**.

Applicant's **deposit account # 08-0750** has been **charged \$70** for the deficiency in the petition fee.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.47(a)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

A handwritten signature in black ink, appearing to read "Leonard Smith", with a long horizontal flourish extending to the right.

Debra S. Brittingham
PCT Special Programs Examiner
PCT Legal Office

Leonard Smith
PCT Legal Examiner
PCT Legal Office

Telephone: (571) 272-3280
Facsimile: (571) 273-0459